**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**CONTEMPT PETITION NO.8 OF 2004**

**IN**

**ARBITRATION PETITION NO.190 OF 2002**

Usha Gopaldas Hansrajani and anr. ...Petitioners

v/s

Narang Developers Pvt.Ltd. and ors. ...Respondents

Mr Sanjay Jain i/b M/s Zohair and Co. for Petitioners.

Mr N. Engineer i/b M/s RMG Law Associates for Respondents.

**CORAM : D.K. DESHMUKH J.**

**DATE : 7TH MARCH 2007.**

**P.C.** :-

1. By this petition, the petitioners allege that the respondents have wilfully disobeyed two orders made by the Court, one order is dated 26th August 2002 and the other is dated 26th August 2003. It is common ground that contempt petition No.26 of 2003 was filed by the petitioners against the order 26th August 2002. Perusal of that order shows that so far as the building constructed by the respondents is concerned, a requisition was received from the Bombay Municipal Corporation dated 29th July 2003 specifying six conditions that are to be complied with by the respondents for getting occupation certificate. In the order dated 26th August 2003, an undertaking given by the respondents to comply with the requisitions received from the Corporation was recorded and they were to do that within a period of eight weeks from the date on which the present petitioners supply to them no objection certificate. The respondents had also undertaken to the Court that they will comply with any further requisitions within two weeks from the date of receipt of such requisitions. It is common ground that the only requisition received from the Corporation was dated 29th July 2003. Thus, as per the order dated 26th

August 2003, the respondents were to comply with the requisition received from the Corporation within a period of eight weeks from the date of submission of no objection certificate by the petitioners. The petitioners supplied no objection certificate on 2nd September 203. According to the petitioners, within eight weeks from 2nd September 2003, the respondents did not comply with the requisition received from the Corporation and obtain occupation certificate. Hence this contempt petition was taken out. In this contempt petition, there is an order made by the Court dated 15th April 2004. In that order, the Court has recorded a finding that by 15th April 2004, the respondents had complied with all the conditins mentioned in the requisition dated 29th July 2003 except condition No.1 in part and condition No.2 in full. The Court recorded the finding that the submission of the respondents that even those conditions have been complied with cannot be accepted. The Court further recorded that the respondents stated before the Court that they will comply with the remaining two conditions at the earliest and the Court accepted their assurance. The Court directed that the matter should be placed before the Court after two weeks for reporting compliance. Admitted position is that after complying with the remaining two conditions, occupation certificate was actually issued by the Corporation on 30th August 2004.

Thus, it appears that to comply with the remaining two conditions, the respondents have taken about four months' time. It is thus clear that though the respondents have complied with not only all the requisitions received from the Corporation but they have also complied with the statements made and undertakings given by them to the Court from time to time, but it is also apparent that they were not able to comply with the requisitions as also the undertakings given to the Court within the stipulated time and they took on each occasion more time in complying with the requisitions. It appears from the record that the main hurdle because of which there was delay in complying with the requisitions of the Corporation was installation of lifts in the building and that got delayed because there was dispute between the manufacturers of the lifts and the respondents. After having gone through the record and after having heard learned counsel appearing for petitioners, in my opinion, it cannot be said that delay in complying with the undertakings was caused deliberately by the respondents or that they have wilfully disobeyed the orders made by this Court or that they have wilfully disobeyed the undertakings given to the Court. Failure by the party to abide by the time limit mentioned by itself does not amount to contempt unless the Court is satisfied that the delay has deliberately caused by the person who has given the

undertaking and was not caused because of some reason which cannot be directly attributed to the person who had given the undertaking. The order of the Court of which disobedience is alleged is dated 26th August 2003. On 2nd September 2003, no objection certificate was given by the petitioners and within one year occupation certificate has been secured by the respondents. Considering various requisitions that are required to be complied with under various enactments before obtaining occupation certificate, in my opinion, time taken by the respondents in obtaining the occupation certificate cannot be said to be inordinate. In any case, that delay which cannot be said to have been deliberately caused by the respondents. In my opinion, considering the order made by this Court on 15th April 2004, it cannot be said that any action is required to be taken against the respondents under the Contempt of Courts Act. Petition is therefore disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.

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